



Ronald L. Campo, Jr. at ¶ 8, which is attached as Ex. 2 to Defs.' Notice of Removal).

2. Plaintiff's Complaint fails to plead unavailability or exhaustion of administrative remedies. Therefore, this Court may in its discretion dismiss Plaintiff's claim. *Byrd v. MacPaper, Inc.*, 961 F.2d 157, 160 (11th Cir. 1992).

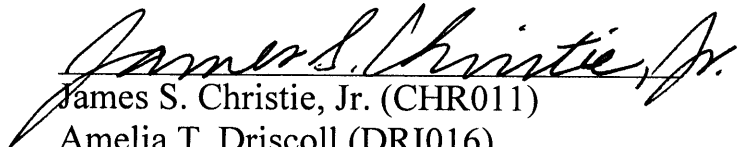
3. "The law is clear in this circuit that plaintiffs in ERISA actions must exhaust available administrative remedies before suing in federal court." *Counts v. Am. Gen. Life and Accident Ins. Co.*, 111 F.3d 105, 107 (11th Cir. 1997); *see also Harrison v. United Mine Workers of Am. 1974 Benefit Plan & Trust*, 941 F. 2d 1190, 1193 (11th Cir. 1991). Because Plaintiff has not exhausted the available administrative remedies, this Court should dismiss this action against Defendants, or alternatively, grant summary judgment in their favor.

4. In addition, and as reflected in Paragraph 6 of Ronald Campo's Affidavit, the Plan's express terms provide spousal life insurance coverage only to a claimant's "legal spouse." Plaintiff and his wife, Sandra Blair, were divorced in 1997. (See Case Action Summary for the matter of *Sandra Blair v. Frank Blair*, DR 1997-460, in the Circuit Court of Montgomery County, Alabama, attached hereto as Ex. 1; Sandra Blair's

Death Certificate, attached hereto as Ex. 2 (documenting that Sandra Blair was divorced at the time of her death)). Accordingly, Plaintiff was not married to Sandra Blair when she passed away on June 16, 2004. Because Plaintiff cannot satisfy the express terms of the Plan's insurance coverage requirements, this Court should grant summary judgment in Defendants' favor.

WHEREFORE, Defendants request this Court to dismiss this action for failure to plead exhaustion of administrative remedies or for failure to satisfy the Plan's insurance coverage requirements, or, in the alternative, to grant summary judgment in Defendants' favor.

Respectfully Submitted,

  
James S. Christie, Jr. (CHR011)

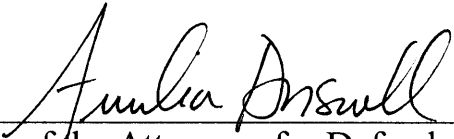
Amelia T. Driscoll (DRI016)  
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1819 Fifth Avenue North  
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Telephone: (205) 521-8000  
Facsimile: (205) 521-8800  
Attorneys for Defendants  
Aetna Life Insurance Company  
AmeriCold Logistics, LLC,  
and Dawn Sanford

**CERTIFICATE OF SERVICE**

I hereby certify that I have this date served the foregoing on:

Ralph Bohanan, Jr.  
Bohanan & Knight, P.C.  
Suite 318 North  
Birmingham, Alabama 35243

by placing a copy in the United States Mail, postage prepaid, on this 21st day of July, 2006.

  
\_\_\_\_\_  
One of the Attorneys for Defendants

# **EXHIBIT “1”**



alacourt.com's

## OffLine Case Detail

Complete Through 7/11/2006

Settings

Parties

Witness List

You can check this case in the RealTime System here

<b>Case</b>							
County		Case Number	DR199700046000	JID	RHD	REF	
Style	SANDRA MICHELLE BLAIR VS FRANK BLAIR						
Code	DRDR	Type	DIVORCE	Filed	4/17/1997	Trial	B
Child		Status	D	Plaintiffs	001	Defendants	001
DJID	RHD	Court Action	S - SETTLED/ANSWER WAIVER 6/3/1997 %>				
DHR	X	ADC		UIFSA		DNA	
FLAG		ORIGN	O	Trial Days		1st Date	
DISSOLU: X	CUSTOD:	LEGSEP:	MOD:	ANNUL:	PROTORD:	TRO:	
SUPPORT:	PATRNTY:	IWO:	GARN:	ARREAR:	CONTMPT:	ALIMNY:	
Amount		FREQ		Pay To	000	Cost Paid By	
<b>Settings</b>							
Date 1		Que 1		Time 1		Description	-
Date 2		Que 2		Time 2		Description	-
Date 3		Que 3		Time 3		Description	-
Date 4		Que 4		Time 4		Description	-
Cont Date		Why				Cont #	00
RevJmt		Admin Date		Why			
Appeal Date		CRT		Case	000000000000		
TBNV1		TBNV2		DSDT		DTYP	
Comment 1							
Comment 2							
<b>Party 1</b>							
Party	C001	Name	BLAIR SANDRA MICHELLE			Type	I
INDX	FRANK	ANAM		JID	RHD		
SSN	XXX-XX-5796	Address 1	26 ELCAR CIRCLE			Sex	F
DOB	10/12/1964	Address 2				Race	B
Country	US	City	MONTGOMERY AL 36108			Phone	000-000-0000
Atty 1	FRE021	Atty 2		Atty 3		Atty 4	
Atty 5		Atty 6					
Issued		Type		Reissue		Type	
Return		Type		Return		Type	
Service		Type		Serv On		By	
Answer		Type		NS Not		NA Not	
Warrant		Type		Arrest			
CACT	S	Date	6/3/1997	For	B	Exep	
AMT	242.65	Cost		Other		Satisfied	
Comment							
<b>Party 2</b>							
Party	D001	Name	BLAIR FRANK			Type	I
INDX	SANDRA	ANAM		JID	RHD		
SSN	XXX-XX-3290	Address 1	3126 RANE DRIVE			Sex	M
DOB	5/21/1958	Address 2				Race	B
Country	US	City	MONTGOMERY AL 36108			Phone	000-000-0000
Atty 1	000000	Atty 2		Atty 3		Atty 4	
Atty 5		Atty 6					
Issued		Type		Reissue		Type	
Return		Type		Return		Type	
Service		Type		Serv On		By	
Answer		Type		NS Not		NA Not	
Warrant		Type		Arrest			
CACT	S	Date	6/3/1997	For	B	Exep	
AMT	242.65	Cost		Other		Satisfied	
Comment							

<b>Party 3</b>						
Party	H001	Name	AMERICOLD LOGISTICS. LLC		Type	B
INDX	WITHHOLDER	ANAM			JID	RHD
SSN	XXX-XX-0460	Address 1	10 GLENLAKE PKWAY		Sex	
DOB		Address 2	SUITE 800		Race	
Country		City	ATLANTA GA 30328		Phone	000-000-0000
Atty 1		Atty 2		Atty 3	Atty 4	
Atty 5		Atty 6				
Issued		Type		Reissue	Type	
Return		Type		Return	Type	
Service		Type		Serv On	By	
Answer		Type		NS Not	NA Not	
Warrant		Type		Arrest		
CACT		Date		For	Exep	
AMT		Cost		Other	Satisfied	
Comment						

**Case Action Summary**

Date	Code	Comments	Operator
4/17/1997 10:17:58 AM	FILE	FILED THIS DATE: 04/17/97	TAF
4/17/1997 10:17:59 AM	TDMN	NON-JURY TRIAL REQUESTED	TAF
4/17/1997 10:17:59 AM	ASSJ	ASSIGNED TO JUDGE: RICHARD H. DORROUGH	TAF
4/17/1997 10:27:32 AM	PART	BLAIR SANDRA MICHELLE ADDED AS C001	TAF
4/17/1997 10:27:33 AM	ATTY	LISTED AS ATTORNEY FOR C001: FREEMAN, DOUGLAS	TAF
4/17/1997 10:28:10 AM	PART	BLAIR FRANK ADDED AS D001	TAF
4/17/1997 10:28:11 AM	ATTY	LISTED AS ATTORNEY FOR D001: PRO SE	TAF
4/17/1997 10:28:38 AM	TEXT	1. PETITION FOR DIVORCE	TAF
4/17/1997 10:28:39 AM	TEXT	2. ANSWER & WAIVER	TAF
4/17/1997 10:28:40 AM	TEXT	3. AFFIDAVIT	TAF
4/17/1997 10:28:41 AM	TEXT	4. SEPARATION AGREEMENT	TAF
4/17/1997 3:55:39 PM	TEXT	5. ORDER OF ATTENDANCE	MER
5/20/1997 1:29:40 PM	TEXT	6. ORDER: TEN DAYS NOTICE	BEB
5/29/1997 4:50:13 PM	TEXT	7. FIT CERT. FOR WIFE & CHILD (FILED 4/17/97)	MER
6/4/1997 8:24:19 AM	CACJ	COURT ACTION JUDGE: RICHARD H. DORROUGH	TAF
6/4/1997 8:24:20 AM	DISP	DISPOSED ON: 06/03/97 BY DIVORCE 542	TAF
6/4/1997 8:29:48 AM	TEXT	9. IWO	TAF
6/4/1997 8:29:49 AM	TEXT	10. CY #9 SHERIFF/EMPL (EX: 6-13-97)	SHM
6/9/1997 1:49:05 PM	JAMT	JUDGMENT OF \$242.65 AGAINST C001 ON 06/09/97	VIL
6/9/1997 1:49:51 PM	JAMT	JUDGMENT OF \$242.65 AGAINST D001 ON 06/09/97	VIL
7/11/1997 8:23:00 AM	TEXT	11. EMPLOYER'S ANSWER	SHM
9/12/2000 12:30:13 PM	PART	AMERICOLD LOGISTICS. LLC ADDED AS H001 (AV21)	MAM
10/17/2000 10:19:39 AM	VERI	IWO STATUS CHANGED FROM: P TO V (AV27)	BRH
5/3/2002 10:51:51 AM	TEXT	12. EMPLOYERS NOTICE PAYROLL CHANGE FORM WEEKLY	SHM
5/3/2002 10:51:52 AM	TEXT	TO BIWEEKLY	SHM

# **EXHIBIT “2”**



TYPE IN PERMANENT  
BLACK INK. DO NOT  
USE GREEN, RED, OR  
BLUE INK.

County  
File  
Number

# ALABAMA

## CERTIFICATE OF DEATH

State File Number 101

3. DECEASED—NAME First Middle Last (Type last name and capitals)	2. DATE OF DEATH (Month, Day, Year)	3. COUNTY OF DEATH
Sandra Michelle BLAIR	June 16, 2004	Montgomery
4. CITY, TOWN, OR LOCATION OF DEATH AND ZIP CODE	5. INSIDE CITY LIMITS (Specify Yes or No)	6. PLACE OF DEATH—HOSPITAL OR OTHER INSTITUTION—(If not in entry, give street and number)
Montgomery 36108	yes	26 Elcar Circle
7. IF HOSPITAL (Specify Inpatient, ER or Outpatient, DDAI)	8. OF HISPANIC ORIGIN (Specify Yes or No) If Yes, Specify Cuban, Mexican, Puerto Rican, etc.	9. RACE—(Specify American Indian, Black, White, etc.)
	No	Black
10. SEX	11. AGE	12. UNDER 1 YEAR
Female	39 YRS.	MOS. DAYS
13. DATE OF BIRTH (Month, Day, Year)	14. DECEASED'S SOCIAL SECURITY NUMBER	
October 12, 1964	420-86-5796	
15. EDUCATION (Specify ONLY highest grade completed below)	16. MARITAL STATUS (Specify Married, Never Married, Widowed, Divorced)	17. SURVIVING SPOUSE (If wife, give maiden name)
Elementary or High School (10-12)	2	Divorced
19. STATE OF BIRTH (If not in USA, name country)	20. RESIDENCE—STATE	21. COUNTY
Alabama	Alabama	Montgomery
22. CITY, TOWN, OR LOCATION AND ZIP CODE	23. INSIDE CITY LIMITS (Specify Yes or No)	24. STREET AND NUMBER
Montgomery 36108	yes	26 Elcar Circle
25. INFORMANT—Name and Address	26. USUAL OCCUPATION (Give kind of work done during most of working life even if retired)	27. KIND OF BUSINESS OR INDUSTRY
Terrance Billups	Teacher	Montgomery County Headstart
6930-Wrangler Road, Montgomery, AL 36117	28. FATHER—NAME First Middle Last	29. MAIDEN NAME OF MOTHER— First Middle Last
	Joe Lewis Hall	Ida Pearl Langford
30. DISPOSITION OF BODY (Specify Burial, Cremation, Medical Donation, Hospital Disposal, Other)	31. DATE OF DISPOSITION (Month, Day, Year)	32. CEMETERY OR CREMATORY (Name)
Burial	June 19, 2004	Long
33. LOCATION—(City or Town—State)	34. FUNERAL HOME—Name and Address	35. FUNERAL DIRECTOR—Signature
Millbrook, AL	Phillips-Riley F.H.	June 18, 2004
2284 W. Fairview Ave., Montg., AL 36108	36. CERTIFYING PHYSICIAN (Physician certifying cause of death) "To the best of my knowledge death occurred at the time and date, and due to the causes and manner stated."	37. DATE SIGNED (Month, Day, Year)
Medical Examiner Coroner	Signature: David G. Morrison MD	7/6/04
38. TIME AND DATE OF DEATH	39. DATE AND TIME PRONOUNCED DEAD (For Coroner/M.E. use only)	40. NAME AND TITLE OF PERSON WHO COMPLETED CAUSE OF DEATH (Item 46)
8:35am 6/16/04		DAVID G. MORRISON MD
41. ADDRESS OF PERSON WHO COMPLETED CAUSE OF DEATH (Item 46)	42. CERTIFIER LICENSE NUMBER	43. DATE FILED (Month, Day, Year)
2055 EAST SOUTH BLVD. Montgomery AL 36110	20819	July 8, 2004
44. REGISTRAR—Signature	45. DATE FILED (Month, Day, Year)	
Branda Davis	July 8, 2004	

### MEDICAL CERTIFICATION

46. PART I Enter the diseases, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or brain failure. LIST ONLY ONE CAUSE ON EACH LINE.	APPROXIMATE INTERVAL BETWEEN ONSET AND DEATH
a. LUNG CANCER	2 years
b. DUE TO (OR AS A CONSEQUENCE OF)	
c. DUE TO (OR AS A CONSEQUENCE OF)	
47. PART II Other significant conditions contributing to death but not resulting in the underlying cause given in Part I	48. WAS THERE A PREGNANCY IN LAST 42 DAYS? (Specify Yes, No, or Unk.)
	No
49. MANNER OF DEATH (Specify—Accident, Homicide, Suicide, Undetermined Circumstances, Pending Investigation, Natural Cause)	50. AUTOPSY (Specify Yes or No)
Natural	No
51. HOW INJURY OCCURRED (Enter nature of injury in Item 46, Part I or Item 47, Part II)	52. DATE OF INJURY (Month, Day, Year)
53. INJURY AT WORK (Specify Yes or No)	54. PLACE OF INJURY—(Specify at home, farm, street, factory, police building, etc.)
55. LOCATION OF INJURY (Street or R.F.D. No., City or Town, State)	

This is a legal record and must be filed within five (5) days after death.

ADPH-HS 2/Rev. 11-99

This is a true and exact copy of the record on file with the Montgomery County Health Department

Branda Davis

July 8 2004